

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MICHAEL HOWARD HUNTER,	)	
	)	
Petitioner,	)	Case No. C05-MC-132-JPD
	)	
v.	)	
	)	
COMMUNITY PSYCHIATRIC CLINIC,	)	ORDER DENYING APPLICATION
et al.,	)	TO PROCEED IN FORMA PAUPERIS
	)	
Respondents.	)	
_____	)	

I. INTRODUCTION

On May 25, 1990, the Honorable John C. Coughenour, issued an order (the “Bar Order”), which requires the Court to deny requests by Michael Howard Hunter to proceed in forma pauperis (“IFP”), unless he shows “good cause to the Court’s satisfaction as to why [he] should be permitted to sue on a particular cause of action at public expense.” *See Hunter v. Aldridge*, C90-616C, Dkt. No. 7. This matter comes before the Court upon Mr. Hunter’s attempt to obtain IFP status in the above-captioned case. Because Mr. Hunter has failed to show good cause as to why he should be allowed to proceed IFP, the Court DENIES his request. Dkt. No. 1.

## II. BACKGROUND

On August 9, 2005, Mr. Hunter submitted an application to proceed IFP and a “proposed petition for writ of mandamus.” Dkt. No. 1. Mr. Hunter appears to argue that he was entitled to certain Social Security payments and that Community Psychiatric Clinic (“CPC”) and the Social Security Administration erroneously withheld and diverted portions of those payments.<sup>1</sup> Dkt. No. 1. He has subsequently filed several other motions related to this matter. *See* Dkt. Nos. 2-6, 8-12. Pursuant to the Bar Order, the Court ordered Mr. Hunter to show good cause by September 23, 2005, as to why he should be permitted to bring this suit at public expense. Dkt. No. 7.

On September 23, 2005, Mr. Hunter filed a “Response to Order to Show Cause and Motion for Recusal.” Dkt. No. 13. Mr. Hunter relies upon *De Long v. Hennessy*, 912 F.2d 1144 (9th Cir. 1990), to argue that the Bar Order is unconstitutional, because he was not given notice and an opportunity to oppose it before it was entered. *Id.* at 2. He does not address the substantive merits of his claim against CPC.

## III. DISCUSSION

District courts have the inherent power to issue pre-filing orders against vexatious litigants with long histories of abusive litigation, but such orders are an extreme remedy that should be issued with caution.<sup>2</sup> *See De Long*, 912 F.2d at 1147. Courts should consider at

---

<sup>1</sup>It appears that Mr. Hunter attempted to bring a nearly identical suit in February 2004. *See* Case Nos. 04-MC-11; C04-347. In that case, Chief Judge Lasnik found that Mr. Hunter’s challenge to the Bar Order was untimely, and issued a judgment in favor of the defendant. Dkt. Nos. 5, 31-32. A motion to vacate the judgment is still pending.

<sup>2</sup>Such bar orders may enjoin litigants from filing suit unless they first meet certain requirements, such as obtaining leave of the court or filing declarations that support the merits of the case. *See e.g., De Long*, 912 F.2d at 1146-47; *O’Loughlin v. Doe*, 920 F.2d 614, 616 (9th Cir. 1990) (requiring vexatious pro se inmate to show good cause before being permitted to file future actions); *Moy v. United States*, 906 F.2d 467, 469 (9th Cir.1990) (forbidding pro se plaintiff from filing further complaints without approval of court).

01 least four factors before issuing a pre-filing order against a vexatious litigant. First, the Court  
02 must provide notice of the proposed order to the litigant and afford him an opportunity to  
03 oppose it. *Id.* Second, the Court must develop a record which demonstrates that the litigant's  
04 activities were "numerous and abusive." *Id.* Third, the Court must make substantive findings  
05 of frivolousness or harassment. *Id.* at 1148. Finally, the Court must tailor the order narrowly  
06 to fit the circumstances. *Id.* In light of these factors, Mr. Hunter has failed to show that the  
07 Bar Order at issue here is improper.

08 A. Notice.

09 Due Process requires that a vexatious litigant be given adequate notice that a pre-filing  
10 order may be entered against him, and an opportunity to oppose it. *De Long*, 912 F.2d at  
11 1147 (internal citations omitted). Though it is not entirely clear from the record whether Mr.  
12 Hunter was given advance notice, the Bar Order has been in effect for approximately fifteen  
13 years. Moreover, it appears that Mr. Hunter has unsuccessfully challenged the Bar Order's  
14 validity in this Court at least twice before. *See* Case Nos. 03-MC-157, Dkt. No. 2; C04-347,  
15 Dkt. No. 5. Hence, although there may be some question as to whether Mr. Hunter was given  
16 advance notice of the Bar Order, his failure to appeal timely means that the decisions are now  
17 final. *Demos v. United States Dist. Ct. for Eastern. Dist. of Wash.*, 925 F.2d 1160, 1161 (9th  
18 Cir. 1991); Fed. R. App. P. 4(a). In addition, as discussed below, the Bar Order satisfies *De*  
19 *Long's* other criteria.

20 B. Adequate Record for Review.

21 For a pre-filing order to be valid, the Court must also provide a record adequate for  
22 review. *De Long*, 912 F.2d at 1147. A record satisfies this requirement when it shows that  
23 the litigant's activities were "numerous or abusive." *Id.* The Bar Order at issue here met this  
24 standard by indicating that, at the time, Mr. Hunter had submitted at least five other  
25 complaints that had "no basis upon which the Court [could] perceive any meritorious claims."  
26

01 Case No. C90-616, Dkt. No. 7. It also indicated that Mr. Hunter had sent abusive letters and  
02 other documents to several other judges. *Id.* Indeed, the Bar Order references a variety of  
03 malicious and vexatious documents Mr. Hunter had sent to the Court, including a “Maggot of  
04 the Year Award” for United States Magistrate Judge Phillip Sweigert. Case No. C90-616,  
05 Dkt. No. 7. The Court also noted that Mr. Hunter had been convicted of threatening to  
06 assault two district judges in the Western District of Washington. *Id.* These references  
07 provide an adequate record of some of the many abusive filings Mr. Hunter made with the  
08 Court.

09 The Court notes that, since then, Mr. Hunter has continued his practice of filing  
10 malicious and vexatious documents. Since the issuance of the Bar Order, Mr. Hunter has  
11 been the named plaintiff in more than a dozen other suits in this district. In his most recent  
12 suit, he has filed documents accusing the Honorable Judges Lasnik, Coughenour, and Zilly of  
13 being “crooked” and “maggots.” Case No. 05-MC-149, Dkt. No. 2. He also accuses several  
14 district and magistrate judges of conspiring with Judge Coughenour to violate the law by  
15 enforcing the Bar Order. Dkt. No. 1. These findings demonstrate that Mr. Hunter’s filings  
16 have been, and continue to be, numerous and abusive.

17 C. Substantive Findings.

18 The third *De Long* factor requires the Court to make substantive findings regarding  
19 the frivolous or harassing nature of a litigant’s filings. *De Long*, 912 F.2d at 1148. To do so,  
20 the Court must look at “both the number and content of the filings[.]” *Id.* As described  
21 above, Mr. Hunter has a long history of frivolous, harassing, and in some cases threatening,  
22 action. The Bar Order thus satisfies this criteria.

23 D. Breadth.

24 The final *De Long* factor is that a pre-filing order “must be narrowly tailored to  
25 closely fit the specific vice encountered.” *De Long*, 912 F.2d at 1148. The purpose of this  
26

01 limitation is to ensure the litigant's right to access the courts. *Id.* (internal citations omitted).  
02 In this case, the Bar Order is sufficiently narrow in light of the specific problems posed by  
03 Mr. Hunter's litigation. As the Bar Order indicated, Mr. Hunter's litigation was a burden on  
04 the Court, because it presented a large volume of frivolous and malicious suits. Case No.  
05 C90-616, Dkt. No. 7. The Bar Order therefore requires him to show good cause as to why  
06 any given suit should be permitted to go forward at public expense. *Id.* This requirement did  
07 not foreclose Mr. Hunter's access to the Courts and was not overly broad in light of his past  
08 (and subsequent) filings. Rather, it provided Mr. Hunter with an opportunity to provide the  
09 Court with a reason for why any particular case should proceed at public expense. *See*  
10 *Franklin v. Murphy*, 745 F.2d 1221, 1231-32 (9th Cir. 1984) (indicating that a vexatious  
11 litigant must be given an opportunity to make a showing that limitations on his ability to file  
12 suit are prejudicial). Thus, in light of Mr. Hunter's history and the nature of his complaints,  
13 the Bar Order is not overbroad.

#### 14 IV. CONCLUSION

15 For the reasons discussed above, the Court finds that Mr. Hunter has failed to show  
16 good cause as to why he should be permitted to bring this suit at public expense. The Court  
17 therefore DENIES him IFP status. Mr. Hunter shall have fourteen (14) days from the date of  
18 this Order to pay the filing fee for this matter or the case shall be dismissed.

19 DATED this 3rd day of October, 2005.

20   
21 JAMES P. DONOHUE  
22 United States Magistrate Judge  
23  
24  
25  
26